

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ERNEST SMITH,
Plaintiff,

v.

Case No. 06-C-999

ABBAS ANGHA, et al.
Defendants.

ORDER

The pro se plaintiff has filed an application to proceed *in forma pauperis*, which I construe as a request to proceed without payment on appeal. There are two grounds for denying *in forma pauperis* status to an appellant: he has not established indigence, or the appeal is in bad faith. *See* 28 U.S.C. §§ 1915(a)(2)-(3). Plaintiff's affidavit establishes indigence, which leaves the question of bad faith.

A district court should not apply an inappropriately high standard when making a good faith determination. *Pate v. Stevens*, 163 F.3d 437, 439 (7th Cir. 1998). An appeal taken in "good faith" is one that seeks review of any issue that is not frivolous, meaning that it involves "legal points arguable on their merits." *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983) (quoting *Anders v. California*, 386 U.S. 738 [1967]); *see also Coppedge v. United States*, 369 U.S. 438, 445 (1962). On the other hand, an appeal taken in bad faith is one that is based on a frivolous claim, that is, a claim that no reasonable person could suppose has any merit. *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

In considering the plaintiff's case I determined that his complaint failed to state a claim. He sought this court's review of his conditions of confinement at the Wisconsin Resource Center, but I concluded that these claims lacked merit. I do not, however, conclude that they are frivolous, in the sense that no reasonable person could suppose they had any legal merit. Thus, I will grant the plaintiff's request to proceed *in forma pauperis* on appeal.

IT IS THEREFORE ORDERED that the plaintiff's request to proceed *in forma pauperis* on appeal is hereby **GRANTED**, because this court determines that this appeal has not been taken in bad faith.

Dated this 30th day of October, 2006.

s/ William C. Griesbach
William C. Griesbach
United States District Judge